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MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,601,826 : DECISION ON REQUEST
Nakamura et al. : FOR
Issue Date: October 13, 2009 : RECONSIDERATION OF
Application No. 10/529,592 : PATENT TERM ADJUSTMENT
Filed: March 24, 2006 : and
Docket No. 082368-003610US : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed December 9, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting the patent term adjustment indicated on the above-identified patent be corrected to indicate the term of the above-identified patent is extended or adjusted by eight hundred eighty-five (885) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate the term of the above-identified patent is extended or adjusted by eight hundred eighty-five (885) days is **GRANTED to the extent indicated herein.**

The Office concurs with patentees' assertion that the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 562 days. However, the Office does not concur with patentees' assertion the period of overlap between 35 U.S.C. § 154(b)(1)(A) ("A Delay") and B Delay is 74 days. The total amount of overlap is 88 days, which consists of two periods of overlap. The first period of overlap is the 74 days period beginning March 31, 2008, and ending June 12, 2008. The second period of overlap is the 14 day period beginning May 16, 2009, and ending May 29, 2009.

The correct patent term adjustment is 871 days, which is the sum of 399 days of A Delay and 562 days of B Delay reduced by 88 days of overlap and reduced by 2 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred seventy-one (871) days**.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.



Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,601,826 B2

DATED : October 13, 2009

DRAFT

INVENTOR(S) : Nakamura et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 397 days

Delete the phrase "by 397 days" and insert – by 871 days--